

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA GAS COMPANY for authority to update its gas revenue requirement and base rates. (U 904 G)	Application 02-12-027 (Filed December 20, 2002)
Application of SAN DIEGO GAS & ELECTRIC COMPANY for authority to update its gas and electric revenue requirement and base rates. (U 902-M)	Application 02-12-028 (Filed December 20, 2002)
Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Gas Company and San Diego Gas & Electric Company.	Investigation 03-03-016 (Filed March 13, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING EXTENDING TIME FOR UCAN
AND TURN TO FILE TESTIMONY AND RELATED SCHEDULE
MODIFICATIONS**

Summary

On August 8, 2003 the Commission's Office of Ratepayer Advocates (ORA) served testimony as scheduled in the above captioned proceeding. Intervening parties' testimony is due on September 5, 2003 in accordance with the schedule adopted by the Assigned Commissioner's Ruling of May 22, 2003. On August 26, 2003 The Utility Reform Network (TURN) and Utility Consumers' Action Network (UCAN) filed a motion to extend the procedural schedule. This

Ruling grants a one-week extension to TURN and UCAN to serve testimony on September 12, 2003. As a consequence, Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) shall serve any rebuttal testimony to TURN and UCAN's positions on September 26, 2003. SoCalGas and SDG&E (and all other parties) shall still comply with the balance of the schedule as previously adopted including the rebuttal to ORA, and the update, that are due September 19, 2003. All other intervenors are to serve as scheduled on September 5, 2003.

Background

TURN and UCAN originally sought a three-week extension and raised the issue informally in several discussions beginning August 22, 2003 with applicants SoCalGas and SDG&E, as well as with other parties and the assigned Administrative Law Judge (ALJ). In a telephonic discussion on August 25, 2003 the ALJ asked, for illustrative purposes, that TURN and UCAN include a two-week option in their motion and possibly a second round of hearings. Other parties were to serve any comments on August 27, 2003 and applicants were to file no later than September 2, 2003.

TURN filed a Motion on behalf of both parties on the morning of August 26, 2003. "TURN and UCAN continue to believe that a three-week extension is appropriate" but they now move that "in light of concerns expressed regarding the impact such an extension would have on the existing schedule, we propose this alternative (two weeks) as a reasonable modification that would provide us with some amount of additional time." (mimeo, pg. 5.)

TURN and UCAN cited two major causes for the need to delay testimony: the time for responses to data requests, and the unavailability of their expert witness JBS Energy.

Interested Parties

Several other parties have made “me too” requests to delay serving their testimony. All of these requests are denied. These parties have known the schedule since May 22, 2003. Only one party previously brought a discovery issue before the ALJ and that was resolved without negatively impacting the September 5 due-date. (TURN and UCAN served a Motion to Compel on August 28, 2003 and its merit has not yet been considered.)

The San Diego Regional Energy Office and the Natural Resources Defense Council (NRDC) sent electronic notes in support of TURN and UCAN on August 26, 2003. NRDC asked to include all parties in any extension. Utility Workers Union of America, AFL-CIO sent an electronic note in support of TURN and UCAN on August 25, 2003 and said it could use the “extra time” too. Local 483 Utility Workers Union of America sent an electronic note in anticipatory support on August 25, 2003.

Southern California Generating Coalition (SCGC) suggests in an August 26, 2003 electronic note that there should be “parity” but has not shown harm equal to that asserted by TURN and UCAN. To allow SCGC and others extra time would only compound the workload for SoCalGas and SDG&E.

The Federal Executive Agency (FEA) served a timely response supporting TURN and UCAN. It cited outstanding data requests as justification for extending the testimony service date for FEA too.

Applicant's Response

SoCalGas and SDG&E oppose the extension in an August 28, 2003 reply. Essentially the applicants counter-argue the assertions that many data requests are unanswered or the time for reply exaggerated. SoCalGas and SDG&E argue that one or more schedule features, including their time to prepare rebuttal,

evidentiary hearing dates, the opening and reply briefs, and even the adoption of a final decision are likely to be delayed by granting a three or even a two week extension. They also cited the concern that discovery and preparing rebuttal to TURN and UCAN, and other intervenors, would adversely impact preparing witnesses for hearings.

They also argue that TURN and UCAN did not wisely use the available time in the schedule and should not have used a consultant with scheduling conflicts. Citing the harm to effectively presenting their case if there were a long extension or a split in the hearing schedule, SoCalGas and SDG&E argue that there should be no schedule changes.

If there was to be any extension, SoCalGas and SDG&E propose that it should be for only one week and a one-week extension to filing rebuttal as well.

Discussion

Any extension on an already tight schedule will adversely impact some party or parties. TURN/UCAN's last minute request for three or even two weeks' delay to the schedule imposes an unreasonable burden on applicants and the Commission. The schedule adopted on May 22, 2003 was fully cognizant of the many other energy proceedings concurrently before the Commission, including those involving the expert witness JBS Energy. Granting a one-week extension will allow TURN and UCAN an opportunity to finish their testimony while mitigating harm to applicants. The schedule for evidentiary hearings and briefing the case will not be altered. SoCalGas and SDG&E will be obliged by this extension to concurrently prepare their witnesses for hearing as well as perform discovery and prepare rebuttal testimony to TURN and UCAN. I expect total and complete cooperation from all parties in response to discovery without delay or hindrance.

IT IS RULED that:

1. The Utility Reform Network (TURN) and Utility Consumers' Action Network (UCAN) shall serve testimony no later than September 12, 2003.
2. Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) shall serve rebuttal to TURN and UCAN no later than September 26, 2003.
3. No other changes are made to the schedule as adopted on May 22, 2003. All other intervenors serve testimony on September 5, 2003. The rebuttal to ORA and parties other than TURN and UCAN, and the up-date, are due September 19, 2003.
4. Parties will not be served a hard copy of this Ruling under the electronic service protocols adopted for this proceeding.

Dated August 29, 2003, at San Francisco, California.

/s/ DOUGLAS M. LONG

Douglas M. Long
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have this day served by electronic mail a true copy of the original attached Administrative Law Judge's Ruling Extending Time for UCAN and TURN to File Testimony and Related Schedule Modifications on all parties of record in this proceeding or their attorneys of record.

Dated August 29, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

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A.02-12-027, et al. DUG/hl2

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